IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.1725 OF 1998

Oriental Bank of Commerce ...Plaintiff

vs.

Mrs.Sushil Seth & ors. ...Defendants

Mr.C.D.Patel i/b Mr.B.R.Chinchkar for the Plaintiff

CORAM: A.S.OKA,J.
DATE : JULY 10,2007

JUDGMENT:

1. Heard learned Counsel for the Plaintiff. The suit is kept under the caption of 'Undefended suit for exparte decree'. The compilation of original documents tendered by the learned Counsel for the Plaintiff is taken on record and marked 'X' for identification. The suit is filed by the Plaintiff-bank for recovery of the loan amount advanced to late Shri Sanjay Seth. The defendants are the legal representatives of the deceased borrower. The first defendant is the mother, the second defendant is the widow and the third defendant is the daughter. The third defendant is described as a minor. When attention of the learned Counsel for the Plaintiff was invited to the fact that though the third defendant is a minor, the procedure contemplated by Rule 3 of Order XXXII of the Code of Civil Procedure,1908 is not followed, the learned Counsel for the Plaintiff stated that he is pressing for the decree only as against the first and second Defendants. He pointed out

that the plaintiffs are seeking a decree against the said defendants to the extent of the property of the deceased coming to their hands.

2. I have perused the original documents filed on record. The averments made in the plaint have not been controverted. Hence, the Plaintiffs are entitled to a decree as prayed with a modification that the rate of furtur interest will be 18% p.a.

3. Hence, I pass the following order ;

i) The suit stands dismissed as against the third defendant.

ii) There will be a decree as against the first and second defendants in terms of prayer clauses (a) and (f) with modification that the rate of interest will be 18% p.a. from the date of the suit till realisation or payment.

iia) The Plaintiff will be entitled to refund of court fee as per rules.

iii) Certified copy is expedited.

JUDGE